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Floor Debate
March 10, 2011

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PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-fourth day of the One Hundred Second Legislature, First Session. Our chaplain for today is Pastor Bob Lawrence from the South Auburn Church of Christ in York, Nebraska, Senator Heidemann's district. Would you all please rise. []

PASTOR LAWRENCE: (Prayer offered.) []

PRESIDENT SHEEHY: Thank you, Pastor Lawrence. I now call to order the forty-fourth day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Please record, Mr. Clerk. []

CLERK: I have a quorum present, Mr. President. []

PRESIDENT SHEEHY: Are there corrections for the Journal? []

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CLERK: I have no corrections. []

PRESIDENT SHEEHY: Messages, reports, or announcements? []

CLERK: Your Committee on Enrollment and Review reports LB389 and LB546 to Select File. Enrollment and Review reports LB27, LB31, LB32, and LB165 as correctly engrossed. The Agriculture Committee chaired by Senator Carlson reports LB200, LB459, LB698 to General File, and LB109 and LB110 as indefinitely postponed. Priority bill designations: Senator Utter, LB482; Senator Schumacher, LB230; Performance Audit, LB617; Senator Campbell, one of the Health Committee's, LB177; Senator Campbell's personal priority, LB600; Senator Janssen, LB279; Natural Resources Committee, LR40CA; Senator Loudon, LB106; and Senator Langemeier, LB549; and Senator Christensen, LB648. Also, Mr. President, two reports on file in the Clerk's Office, one from Educational Lands and Funds, and a report from Health and Human Services; a lobby report for this week; and explanation of vote from Senator Janssen. That's all that I have. (Legislative Journal pages 817-822.) [LB389 LB546 LB27 LB31 LB32 LB165 LB200 LB459 LB698 LB109 LB110 LB482 LB230 LB617 LB177 LB600 LB279 LR40CA LB106 LB549 LB648]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will now move to the first legislative confirmation report. []

CLERK: Mr. President, General Affairs has the first report this morning on five appointments to the Nebraska Arts Council. (Legislative Journal page 773.) []

PRESIDENT SHEEHY: Senator Karpisek, you're recognized to open on the General Affairs Committee confirmation report, first report. []

SENATOR KARPISEK: Thank you, Mr. President and members of the body. The General Affairs Committee voted unanimously to approve the appointment of five

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people to the Nebraska Arts Council. They will each serve a three-year term. Lynn Roper of Lincoln and Mark Laughlin of Omaha are new appointments. Lynn Roper currently serves on several boards, including the Nebraska Environmental Trust, University of Nebraska Foundation Board, the Woods Charitable Fund, the Foundation for Lincoln City Libraries, the Madonna Hospital Board, The UNMC Board, and United Way of Lincoln. Ms. Roper is employed at Merrill Lynch as a financial advisor. When she appeared before the committee her passion for the arts was very evident, particularly in the area of literature. Mark Laughlin is currently employed at the Fraser-Stryker Law Firm in Omaha. His particular interest is in theatre, and he has been on the Board of Trustees of the Omaha Community Playhouse for 13 years. Donna Hastings of Hastings is being reappointed to the Council for a second three-year term. She is an elementary school principal and teaches art at Lewis Central Schools in Council Bluffs, and is the president and owner of Dahlsten Truck Line. She has experience in several areas of the arts in her home community having served on the Hastings Community Theatre, symphony and museum boards, and is executive director of the Cottonwood Festival. She also serves on the community advisory board for Wells Fargo and the Adams County Convention and Visitors Bureau Board. Her focus is particularly on cultural education in schools. Nana Smith of Lincoln is also being reappointed. She is a homemaker and community volunteer and is heavily involved in arts in the Lincoln area. She serves on the Sheldon Art Museum Association and is a trustee of the Lincoln Public Schools Foundation. In the past she has worked with the Lincoln Community Foundation and the Mary Riepma Ross Film Theatre. She studied law at the New York University School of Law and Yale, and is married to J. B. Milliken, president of the University of Nebraska. Bob Culver of Omaha is also being reappointed to the Arts Council. He is employed by the Lincoln Financial Group and has received several honors for recognizing...or excuse me, several honors for ingenuity in small business. He has also been recognized as one of the outstanding alumni for UNL's Fine Arts College. Mr. Culver serves on boards for the Omaha Symphony, the Bemis Art Center, Opera Omaha, Rose Theatre, and the Omaha Public Arts Commission, Omaha Chamber of Commerce, United Way of the Midlands, and others. All five individuals

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were confirmed unanimously by the General Affairs Committee. I believe they bring important skills and knowledge to the Nebraska Arts Council, and I urge your support. Thank you, Mr. President. []

PRESIDENT SHEEHY: Thank you, Senator Karpisek. You've heard the opening of the first General Affairs Committee confirmation report. Member requesting to speak, Senator Nelson. []

SENATOR NELSON: Thank you, Mr. President and members of the body. I want to speak briefly in support of Mark Laughlin in Omaha, a fellow attorney who, as was stated, has been very active in the Omaha Community Playhouse which is in my district. He was at the forefront in resolving some issues resulting from our recent economic downturn and the Playhouse is doing very well right now. So I heartily support his nomination as a member of the Arts Council. Thank you, Mr. President. []

PRESIDENT SHEEHY: Thank you, Senator Nelson. Seeing no additional requests to speak, Senator Karpisek, you're recognized to close. Senator Karpisek waives closing. The question before the body is on the adoption of the General Affairs Committee confirmation report, first report. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal pages 822-823.) 39 ayes, 0 nays on adoption of the report. []

PRESIDENT SHEEHY: The confirmation report is adopted. (Doctor of the day and visitors introduced.) Also, members, the treats being passed out to you at your desk at this time are courtesy of Senator Ken Haar in celebration of his birthday. Happy birthday, Senator. Mr. Clerk, we will now move to the second General Affairs Committee confirmation report. []

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CLERK: The report involves two appointments to the State Electrical Board, Mr. President. (Legislative Journal page 774.) []

PRESIDENT SHEEHY: Senator Karpisek, you're recognized to open on the second General Affairs Committee confirmation report. []

SENATOR KARPISEK: Thank you, Mr. President and members of the Legislature. The General Affairs Committee voted unanimously to approve two reappointments to the State Electrical Board. Edwin Bergstraesser works as chief electrical inspector for the city of Lincoln. He is the Nebraska representative to the western section of the International Association of Electrical Inspectors. Cory Mueller of Seward works as an electrical contractor in Seward and Lincoln. He has just completed his first term on the Electrical Board and currently serves as its vice president. Both will serve four-year terms to the board and I would encourage your support for their reappointments. Thank you, Mr. President. []

PRESIDENT SHEEHY: Thank you, Senator Karpisek. You've heard the opening of the second General Affairs Committee confirmation report. Seeing no requests to speak, Senator Karpisek you're recognized to close. Senator Karpisek waives closing. The question before the body is on the adoption of confirmation report number two. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal page 823.) 37 ayes, 0 nays on the report. []

PRESIDENT SHEEHY: The confirmation report is adopted. We'll move to the third General Affairs Committee confirmation report. []

CLERK: The third report involves two appointments to the State Racing Commission. (Legislative Journal page 774.) []

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PRESIDENT SHEEHY: Senator Karpisek, you're recognized to open on the third confirmation report from General Affairs Committee. []

SENATOR KARPISEK: Thank you, Mr. President and members of the body. The General Affairs Committee voted 8-0 to approve two appointments to the State Racing Commission. They will serve five-year terms. Kristopher Covi of Omaha is a new appointment to the commission. He graduated with honors from the University of Nebraska Law College and is licensed in Nebraska and Iowa. He specializes in litigation in environmental law. He has served on several charitable boards including M4K Omaha, TeamMates Mentoring Program, March of Dimes Event Committee, and he is currently assisting the Lee Terry campaign as an event host. Jeffrey Galyen of Norfolk is also a new appointment to the commission. He also graduated from the UNL Law College and is employed at Krotter Hoffman in Norfolk. On the side, he is active in horse racing. I'd like to thank all of the people who have come forward to be members of these commissions. They're very important to what we do. I encourage your support of these new members to the Racing Commission. Thank you, Mr. President. []

PRESIDENT SHEEHY: Thank you, Senator Karpisek. You've heard the opening of the third General Affairs Committee confirmation report. Member requesting to speak, Senator Lautenbaugh. []

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do rise in support of the nomination and confirmation of Kris Covi to the Racing Commission. I have known Kris Covi for several years. He is a partner at the firm of McGrath North in Omaha, Nebraska, and I believe he is the kind of person that we should be encouraging to be involved in the various panels and commissions that we have throughout the state. I am pleased that he is willing to serve and I think we'll be better for it, and I would urge the body to vote in favor of this confirmation. []

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Pirsch. []

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SENATOR PIRSCH: Thank you, Mr. President and members of the body. I'd just like to echo the sentiments of Senator Lautenbaugh with regards to Mr. Covi. I have known him for a long number of years as well and think he would be ideal for the job. Thank you. []

PRESIDENT SHEEHY: Thank you, Senator Pirsch. Seeing no additional requests to speak, Senator Karpisek, you're recognized to close. Senator Karpisek waives closing. The question for the body is on the adoption of the third confirmation report from General Affairs Committee. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal page 824.) 42 ayes, 0 nays, Mr. President, on the report. []

PRESIDENT SHEEHY: The third confirmation report is adopted. Next item, Mr. Clerk. []

CLERK: Health and Human Services reports on five appointments to the Nebraska Rural Health Advisory Commission. (Legislative Journal page 802.) []

PRESIDENT SHEEHY: Senator Campbell, you're recognized to open on your first Health and Human Services Committee confirmation report. []

SENATOR CAMPBELL: Thank you, Mr. President and good morning, colleagues. The Health and Human Services Committee reports favorably on the appointment of Kathy Boswell, Dr. Douglas Dilly, Dr. Zachary Frey, Martin Fattig, and Sharon Vandegrift to the Rural Health Advisory Commission. Our committee met on hearings on February 11th and 25th to consider the appointments. All the appointees appeared in person and answered questions and were unanimously approved by the committee. Dr. Zachary Frey is currently serving his medical residency in Lincoln and is a medical school

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representative to the commission. His appointment is for two years. Dr. Frey is studying to be a family physician and is interested in rural medicine. He plans on practicing in a rural setting in Nebraska when he graduates. During his medical school rotations he was able to gain rural medical experience serving in Superior. Our second appointment is Kathy Boswell for a three-year term as the health consumer on the Rural Health Advisory Commission. She and her husband live on a farm in Allen, Nebraska. She has served on a variety of other boards, including the Northeast Nebraska Public Health Board, Allen Day Care Advisory Board, and the Dixon County Convention and Visitors Bureau. Dr. Douglas Dilly serves as the rural doctor on the commission. Dr. Dilly graduated from UNMC in 1995 and finished his residency in rural medicine in 1998. He lives in Neligh and works at the Antelope Valley Hospital as the physician for the 25-bed critical access hospital. Dr. Dilly also assists with the coverages in Hastings and the ER at Faith Regional in Norfolk. Mr. Martin Fattig is the administrator and chief executive officer of the Nemaha County Hospital in Auburn. Since assuming his duties, the hospital has moved to electronic medical records and the hospital has been named to the American Hospital Association Health Forum's most wired list. Mr. Fattig is completing a second term as the rural hospital representative. Mrs. Sharon Vandegrift is a nurse at the Jefferson County Health Center in Fairbury. She has a master's degree in nursing. She has served as the president of the Nebraska Healthcare Quality and Risk Association, and she has served as the representative of Rural Nurse. I ask for your confirmation of these five candidates. Thank you, Mr. President. []

PRESIDENT SHEEHY: Thank you, Senator Campbell. You have heard the opening of the first Health and Human Services Committee confirmation report. Seeing no requests to speak, Senator Campbell, you're recognized to close. Senator Campbell waives closing. The question for the body is on the adoption of the first confirmation report. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal pages 824-825.)40 ayes, 0 nays on the report, Mr. President. []

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PRESIDENT SHEEHY: The first confirmation report is adopted. Next item. []

CLERK: Mr. President, Health and Human Services reports on an appointment of Susan Staab to the Foster Care Review Board. (Legislative Journal page 802.) []

PRESIDENT SHEEHY: Senator Campbell, you're recognized to open on your second confirmation report. []

SENATOR CAMPBELL: The Health and Human Services Committee reports favorably on the appointment of Susan Staab to the State Foster Care Review Board. The Health and Human Services Committee held a public hearing on February 11. Ms. Staab appeared in person and answered questions from the committee. She is...currently serves as a performance improvement specialist for Lincoln Industries. She has also been an employer in a number of businesses, including BryanLGH Medical Center and AT&T working in implementation design and customer service. Additionally, Ms. Staab has volunteered as a member of a local foster care review board. Finally, she has personal experience with the foster care system having served as a licensed foster and adoptive parent. She and her husband adopted their youngest daughter when the child was five-years-old through the Nebraska Child Welfare System in 2006. And I would encourage your confirmation of this appointment. []

PRESIDENT SHEEHY: Thank you, Senator Campbell. You've heard the opening of the second confirmation report from Health and Human Services Committee. Seeing no requests to speak, Senator Campbell, you're recognized to close. Senator Campbell waives closing. The question for the body is on the adoption of the second confirmation report. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal pages 825-826.) 38 ayes, 0 nays, Mr. President on the adoption of the report. []

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PRESIDENT SHEEHY: The confirmation report is adopted. Next item, Mr. Clerk. []

CLERK: Health and Human Services reports on three appointments to the State Board of Health. (Legislative Journal page 802.) []

PRESIDENT SHEEHY: Senator Campbell, you're recognized to open on your third confirmation report from Health and Human Services Committee. []

SENATOR CAMPBELL: Thank you, Mr. President. The Health and Human Services Committee reports favorably on the appointments of Diane Jackson, Dr. Dale Michels, and Roger Reamer to the State Board of Health. We met with all of the candidates on February 11 and all the appointees appeared in person and they were approved unanimously. Our first appointment is for a...new appointment for a first five-year term. Diane Jackson is a family nurse practitioner living in Riverton, Nebraska. She obtained her bachelor of science in nursing from UNMC in Omaha, and her master's of science from Creighton. Mrs. Jackson works at Franklin County Memorial Hospital and provides coverage for rural health clinics associated with the Franklin County Memorial, and takes call for the emergency department at that hospital. She is an instructor at the University of Nebraska-Kearney, where she has developed a simulation pediatric clinical experience for third-level students. Our second appointment are for five-year terms. Dr. Dale Michels is a doctor with the Lincoln Family Medical Group. He also is a constituent of mine in the 25th Legislative District and, additionally, the body should be very familiar with Dr. Michels because he is probably one of our most frequent doctors on call of the day. Dr. Michels graduated from UNMC in 1973. He serves as attending staff at St. Elizabeth where he is a member of the Ethics and IT Committees. He is also attending staff at BryanLGH and Madonna Rehab Hospital. Dr. Michels is the medical director at Ambassador Nursing Home, Ashland Care Center, and Eastmont Towers. And I could go on and on because Dr. Michels has served in so many community capacities in the Lincoln and Lancaster area. Our final appointee is Mr. Roger Reamer

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who serves as the hospital administrator at Memorial Health Care Systems in Seward. Mr. Reamer is active with the Four Corners Public Health Center and is beginning a three-year term on the board of directors of the national American Hospital Association. And that really is a plus for the state of Nebraska to have the quality of this appointee step forward. I ask for your confirmation of all the appointees. Thank you, Mr. President. []

PRESIDENT SHEEHY: Thank you, Senator Campbell. You've heard the opening of the third confirmation report from Health and Human Services Committee. Member requesting to speak, Senator Avery. []

SENATOR AVERY: Thank you, Mr. President. I want to voice my support for Dr. Dale Michels. He has been my personal and family physician since he began his practice in the city of Lincoln in the early 1970s. He is an excellent physician with a tremendous record of public service. He has been a contributor to this body by organizing, I think Senator Campbell mentioned this, the physician of the day program. I think that we could not find a better person to serve on this board. Thank you. []

PRESIDENT SHEEHY: Thank you, Senator Avery. Seeing no additional requests to speak, Senator Campbell, you're recognized to close on your third confirmation report. Senator Campbell, did you want to close? No. Senator Campbell waives closing. The question for the body is on the adoption of the third confirmation report from Health and Human Services. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal page 826.) 39 ayes, 0 nays on adoption of the report. []

PRESIDENT SHEEHY: The third confirmation report is adopted. Next item under Legislative confirmation report. []

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CLERK: Mr. President, the Government Committee reports on three appointments to the State Emergency Response Commission. (Legislative Journal page 803.) []

PRESIDENT SHEEHY: Senator Avery, you're recognized to open on your confirmation report from Government, Military and Veterans Affairs. []

SENATOR AVERY: Thank you, Mr. President. The Government, Military and Veterans Affairs Committee met on February 11th to consider the reappointment of three individuals to the State Emergency Response Commission. That commission works with the Nebraska Emergency Management Agency in a number of areas involving emergencies and how to respond to them. It's a very important agency and these are very capable people, all three of whom have previously served on this commission. The first one is Keith Hansen from Lincoln who currently works with the University of Nebraska Medical Center and with Creighton. He has worked in public health disaster response for several years. His responsibilities have included the creation and implementation of the state's strategic national stockpile plan, exercised development and implementation and coordination of the public health and medical disaster responses in conjunction with the Nebraska Emergency Management Agency. He has extensive experience in public health education, public health and disaster response training exercising disaster plans. The vote on his nomination was 6-0 with two members absent. The second nominee is Tim Hofbauer from Columbus who has served on the commission for several years. The committee felt he was well qualified for reappointment to this commission. He filled the interim emergency management position and hopes to continue in that position. The vote on his nomination was also 6-0 with two absent. The third is Dana Miller from Gering, Nebraska. I have one correction here. We heard his...we had his hearing on the 17th, not the 11th. This was done by phone because of weather. He was not able to get here. This, too, is a reappointment. The committee felt he was very well qualified for the appointment. He represents the firefighters across the state of Nebraska. The committee recommends that you approve these three reappointments to the State Emergency Response Commission. Thank you,

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Mr. President. []

PRESIDENT SHEEHY: Thank you, Senator Avery. You've heard the opening of the first confirmation report from Government, Military and Veterans Affairs. Seeing no request to speak, Senator Avery, you're recognized to close. Senator Avery waives closing. The question for the body is on the adoption of the first confirmation report. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal page 826-827.) 39 ayes, 0 nays, Mr. President, on the report. []

PRESIDENT SHEEHY: The first confirmation report is adopted. Next item. []

CLERK: Mr. President, Government Committee reports on an appointment to the State Personnel Board. (Legislative Journal page 803.) []

PRESIDENT SHEEHY: Senator Avery, you're recognized to open on the second confirmation report from Government, Military and Veterans Affairs. []

SENATOR AVERY: Thank you, Mr. President. The Government, Military and Veterans Affairs Committee met on February 11 to consider Brian Tessman for reappointment to the State Personnel Board. He currently serves on the Judicial Nomination Commission for the Fifth Judicial Circuit for the county and the state personnel board. He says he has previously served on the Hastings City Council. During that time he served as a board member and liaison for the Hastings Economic Development Corporation. He has other activities with the Hastings Utility and with the Community Development Advisory Board. He was, from 1996 to 2000, a member of the Nebraska League of Municipalities and the National League of Cities. The committee voted this to the full Legislature on a 6-0 vote with two members absent. We feel that Mr. Tessman is an excellent reappointment to the State Personnel Board and so recommend that to this body.

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Thank you. []

PRESIDENT SHEEHY: Thank you, Senator Avery. You've heard the opening of the second confirmation report. Seeing no requests to speak, Senator Avery, you're recognized to close. Senator Avery waives closing. The question for the body is on the adoption of the second confirmation report from Government, Military and Veterans Affairs. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal pages 827-828.) 41 ayes, 0 nays, Mr. President, on the adoption of the report. []

PRESIDENT SHEEHY: The second confirmation report is adopted. Next item, Mr. Clerk. []

CLERK: Mr. President, the final confirmation report from the Transportation Committee involves two appointments to the Board of Public Roads Classifications and Standards. (Legislative Journal page 803.) []

PRESIDENT SHEEHY: Senator Fischer, you're recognized to open on the confirmation report from Transportation and Telecommunications Committee. []

SENATOR FISCHER: Thank you, Mr. President and members. The Transportation and Telecommunications Committee held confirmation hearings on Monday, March 7th, for two appointments to the Board of Public Roads Classifications and Standards. The Board of Public Roads Classifications and Standards oversees annual construction planning and fiscal reporting for the state and local highways, roads, and streets, as well as the application of minimum design, construction, and maintenance standards for functional classifications of public roadways. The standards ensure that each segment can safely handle the traffic pattern and volume it is expected to carry as part of a policy enacted in 1969 to provide for the efficient management, operation, and control of an

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integrated system of state and local highways, roads, and streets. The eleven members are appointed by the Governor for four-year terms subject to confirmation by this body. The board is made up of three members from the counties, three from municipalities, two from Department of Roads, and three lay members. The first appointee is LeRoy Gerrard, a new appointment to represent counties. Mr. Gerrard is currently a county commissioner in Polk County. He lives in Stromsburg. His term is from January 13, 2011, to November 30, 2011. The second appointee is David Wacker. Mr. Wacker is a new appointment to represent municipalities between 2,500 and 50,000. Mr. Wacker is employed as the director of Public Works/City Engineer of Hastings. His appointment runs from February 23, 2011, to November 30, 2011. Neither appointee was able to appear in person but both submitted letters to the committee. The Transportation and Telecommunications Committee recommends these confirmations with all eight members in favor. Thank you, Mr. President. []

PRESIDENT SHEEHY: Thank you, Senator Fischer. You've heard the opening of the confirmation report from Transportation and Telecommunications Committee. Seeing no requests to speak, Senator Fischer, you're recognized to close. Senator Fischer waives closing. The question for the body is on the adoption of the confirmation report. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal page 828.) 42 ayes, 0 nays on adoption of the report. []

PRESIDENT SHEEHY: The confirmation report is adopted. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR94, LR95, LR96, and LR97. Mr. Clerk, we'll move to the first item under motion to withdraw. [LR94 LR95 LR96 LR97]

CLERK: Mr. President, Senator Wightman would move to withdraw LB16. [LB16]

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PRESIDENT SHEEHY: Senator Wightman, you're recognized to open on your motion to withdraw LB16. [LB16]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. I rise to request the consent of this body to withdraw LB16. It was originally filed at the request of constituents as a placeholder more than anything else, and we thank the Judiciary Committee for holding off the hearing, the public hearing on this bill. Action has taken place outside this body in the last several days that will be a preferable resolution to LB16. So with that, I would ask that you vote green in favor of withdrawing the bill. Thank you, Mr. President. [LB16]

PRESIDENT SHEEHY: Thank you, Senator Wightman. You have heard the opening on the motion to withdraw LB16. Seeing no requests to speak, Senator Wightman you're recognized to close. Senator Wightman waives closing. The question for the body is on the adoption of the motion to withdraw LB16. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB16]

CLERK: 42 ayes, 0 nays on the motion to withdraw, Mr. President. [LB16]

PRESIDENT SHEEHY: The motion to withdraw is adopted. Mr. Clerk, we will now proceed to items under Final Reading. Members should take their seats in preparation for Final Reading. Mr. Clerk, you have items for the record. [LB16]

CLERK: I do, Mr. President. Your Committee on Health, chaired by Senator Campbell, reports LB413, LB525, LB591, LB687, LB542 to General File. I have a hearing notice from Health and Human Services. Priority bill designations: Senator Cook, LB152; Senator Carlson as Chair of Ag, LB305 and LB200; Senator Christensen, LB698...Senator Carlson, LB698; and Senator Bloomfield, LB521. Senator Hadley would like to put an amendment to LB387, Mr. President. Also Senator Mello, LB682; Senator Smith, LB252; and the Government Committee, LB499 and LB176. That's all

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that I have, Mr. President. (Legislative Journal pages 829-832.) [LB413 LB525 LB591 LB687 LB542 LB152 LB305 LB200 LB698 LB521 LB387 LB682 LB252 LB499 LB176]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will move to the first item under General File, LB159. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB159]

CLERK: 47 ayes, 1 nay to dispense with the at-large reading. [LB159]

PRESIDENT SHEEHY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB159]

CLERK: (Read title of LB159.) [LB159]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB159 pass with the emergency clause attached? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB159]

CLERK: (Record vote read, Legislative Journal pages 832-833.) 48 ayes, 0 nays, 1 excused and not voting. [LB159]

PRESIDENT SHEEHY: LB159 passes with the emergency clause attached. We will now proceed to LB164. [LB159 LB164]

CLERK: (Read LB164 on Final Reading.) [LB164]

PRESIDENT SHEEHY: All provisions of law relative to procedure having complied with, the question is, shall LB164 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB164]

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CLERK: (Record vote read, Legislative Journal pages 833-834.) 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President. [LB164]

PRESIDENT SHEEHY: LB164 passes. We'll now proceed to LB191. [LB164 LB191]

CLERK: (Read LB191 on Final Reading.) [LB191]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB191 pass with the emergency clause attached? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB191]

CLERK: (Record vote read, Legislative Journal pages 834-835.) 45 ayes, 0 nays, 3 present and not voting, 1 excused and not voting, Mr. President. [LB191]

PRESIDENT SHEEHY: LB191 passes with the emergency clause attached. We will now proceed to LB210. Mr. Clerk the first vote is to dispense with the at-large reading. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB191 LB210]

CLERK: 47 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB210]

PRESIDENT SHEEHY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB210]

CLERK: (Read title of LB210.) [LB210]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB210 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB210]

CLERK: (Record vote read, Legislative Journal pages 835-836.) 48 ayes, 0 nays, 1

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excused and not voting. [LB210]

PRESIDENT SHEEHY: LB210 passes. We will now proceed to LB210A. [LB210 Labile]

CLERK: (Read LB210A on Final Reading.) [LB210A]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB210A pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB210A]

CLERK: Record vote read, Legislative Journal pages 836-837.) 48 ayes, 0 nays, 1 excused and not voting. [LB210A]

PRESIDENT SHEEHY: LB210A passes. We will now proceed to LB228. [LB210A LB228]

CLERK: (Read LB228 on Final Reading.) [LB228]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB228 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB228]

CLERK: (Record vote read, Legislative Journal page 837.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB228]

PRESIDENT SHEEHY: LB228 passes. We will now proceed to LB257. [LB228 LB257]

CLERK: (Read LB257 on Final Reading.) [LB257]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied

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with, the question is, shall LB257 pass? All those in favor vote yea; opposed, nay.
Record, Mr. Clerk. [LB257]

CLERK: (Record vote read, Legislative Journal pages 837-838.) 48 ayes, 0 nays, 1
excused and not voting. [LB257]

PRESIDENT SHEEHY: LB257 passes. We will now proceed to LB278. [LB257 LB278]

CLERK: (Read LB278 on Final Reading.) [LB278]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied
with, the question is, shall LB278 pass? All those in favor vote yea; opposed, nay.
Record, Mr. Clerk. [LB278]

CLERK: (Record vote read, Legislative Journal pages 838-839.) 48 ayes, 0 nays, 1
excused and not voting. [LB278]

PRESIDENT SHEEHY: LB278 passes. We will now proceed to LB281. [LB278 LB281]

CLERK: (Read LB281 on Final Reading.) [LB281]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied
with, the question is, shall LB281 pass? All those in favor vote yea; opposed, nay.
Record, Mr. Clerk. [LB281]

CLERK: (Record vote read, Legislative Journal page 839.) 42 ayes, 6 nays, 1 excused
and not voting. [LB281]

PRESIDENT SHEEHY: LB281 passes. We will now proceed to LB284. [LB281 LB284]

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ASSISTANT CLERK: (Read LB284 on Final Reading. [LB284]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB284 pass? All those in favor vote yea; opposed, nay.
Record, Mr. Clerk. [LB284]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 839-840.) The vote is 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB284]

PRESIDENT SHEEHY: LB284 passes. We will now proceed to LB314. [LB284 LB314]

ASSISTANT CLERK: (Read LB314 on Final Reading.) [LB314]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB314 pass? All those in favor vote yea; opposed, nay.
Record, Mr. Clerk. [LB314]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 840-841.) The vote is 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President.
[LB314]

PRESIDENT SHEEHY: LB314 passes. We will now proceed to LB368. [LB314 LB368]

ASSISTANT CLERK: (Read LB368 on Final Reading.) [LB368]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB368 pass? All those in favor vote yea; opposed, nay.
Record, Mr. Clerk. [LB368]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 841.) The vote is 48

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ayes, 0 nays, 1 excused and not voting. [LB368]

PRESIDENT SHEEHY: LB368 passes. We will now proceed to LB399. [LB368 LB399]

ASSISTANT CLERK: (Read LB399 on Final Reading.) [LB399]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB399 pass with the emergency clause attached? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB399]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 841-842) The vote is 48 ayes, 0 nays, 1 excused and not voting. [LB399]

PRESIDENT SHEEHY: LB399 passes with the emergency clause attached. We will now proceed to LB471. [LB399 LB471]

ASSISTANT CLERK: (Read LB471 on Final Reading.) [LB471]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB471 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB471]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 842-843.) The vote is 48 ayes, 0 nays, 1 excused and not voting. [LB471]

PRESIDENT SHEEHY: LB471 passes. We will now proceed to LB474. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB471 LB474]

ASSISTANT CLERK: The vote is 46 ayes, 0 nays on the motion to dispense with the

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at-large reading, Mr. President. [LB474]

PRESIDENT SHEEHY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB474]

ASSISTANT CLERK: (Read title of LB474.) [LB474]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB474 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB474]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 843-844.) The vote is 48 ayes, 0 nays, 1 excused and not voting. [LB474]

PRESIDENT SHEEHY: LB474 passes. We will now proceed to LB556. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB474 LB556]

ASSISTANT CLERK: 37 ayes, 1 nay to dispense with the at-large reading, Mr. President. [LB556]

PRESIDENT SHEEHY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB556]

ASSISTANT CLERK: (Read title of LB556.) [LB556]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB556 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB556]

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ASSISTANT CLERK: (Record vote read, Legislative Journal page 844.) Vote is 48 ayes, 0 nays, 1 excused and not voting. [LB556]

PRESIDENT SHEEHY: LB556 passes. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB159, LB164, LB191, LB210, LB210A, LB228, LB257, LB278, LB281, LB284, LB314, LB368, LB399, LB471, LB474, and LB556. Mr. Clerk, do you have items for the record? [LB556 LB159 LB164 LB191 LB210 LB210A LB228 LB257 LB278 LB281 LB284 LB314 LB399 LB471 LB474 LB556]

ASSISTANT CLERK: Mr. President, I do. Your Committee on Enrollment and Review reports LB421, LB260, LB105, LB207, LB563, LB621, and LB41 to Select File, some of those bills do have E&R amendments. A priority bill designation: Natural Resources has selected LB595 as a committee priority bill; Revenue has designated LB384 as a priority bill. Your Committee on Natural Resources reports LB156 and LR40CA to General File, Mr. President. In addition to that, the Tribal Relations Committee will meet under the north balcony now, that's the Tribal Relations Committee. (Legislative Journal pages 845-846.) [LB421 LB260 LB105 LB207 LB563 LB621 LB41 LB595 LB384 LB156 LR40CA]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will move to the first legislative bill under General File.

ASSISTANT CLERK: Mr. President, LB255 was introduced by the Transportation and Telecommunications Committee. (Read title.) The bill was read for the first time on January 11 of this year. It was referred to the Committee on Transportation and Telecommunications. That committee placed the bill on General File with no committee amendments, and the bill was considered yesterday, Mr. President. [LB255]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Fischer, would you like to give us

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a couple of minutes' summary of LB255? [LB255]

SENATOR FISCHER: Thank you, Mr. President and members. LB255, as we discussed yesterday, is one of the Transportation and Telecommunications Committee LR542 options. The bill affects the General Fund appropriation for the Public Service Commission. The current budget shortfall required that every committee establish the priorities and look at those agencies under their jurisdiction one by one. We did that. Due to the railroad inspection program supplemental relationship with the federal government, we felt comfortable in advancing LB255 to General File. There is a General Fund savings of \$123,000 with the elimination of the two state inspectors. Both the Governor's budget and the Appropriations Committee's preliminary budget have taken this bill into consideration... [LB255]

PRESIDENT SHEEHY: (Gavel) [LB255]

SENATOR FISCHER: ...to make their budgets work. Thank you, Mr. President. [LB255]

PRESIDENT SHEEHY: Thank you, Senator Fischer. Members requesting to speak on LB255: Senator Hadley, followed by Senator Lathrop, Senator Fischer, Senator Loudon, Senator Hansen, and Senator Ken Haar. Senator Hadley. [LB255]

SENATOR HADLEY: Mr. President, members of the body, good morning, I should say. I'm going to rise in support of LB255. I have trouble reading that far. This is part of the LR542 process. We asked Public Service Commission to come in, give us their recommendations. We had to look through a number of them; some were better than others. I want to talk a little bit about railroad safety. There is the Federal Railroad Administration. FRA's office of railroad safety promotion regulates safety throughout the nation's railroad industry. The office executes its regulatory and inspection responsibilities through a diverse staff of railroad safety experts. The staff includes 400 federal safety inspectors who operate out of eight regional offices. One of the regional

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offices is in Kansas City and Nebraska is in that region. A regional administrator and two deputy regional administrators manage each region with a supervisory specialist for five of the safety disciplines and several chief inspectors. The five disciplines are: hazardous materials, motive power and equipment, operating practices, signaling and train control, track instructions. Additionally, FRA's field component include program managers for highways, rail, grade crossing, and trespass prevention, industrial hygienist. Also the office of railroad safety trains and certifies state safety inspectors. The point that I think is interesting, there are only 170 state inspectors in the nation--170 total state...in 30 states. Twenty states do not have state railroad inspectors. I thought it was interesting when I looked around at the states surrounding us: South Dakota does not use state inspectors; Kansas does not use state inspectors; Colorado does not use state inspectors; Wyoming does not use state inspectors; Iowa has two; Missouri has two; Idaho has one. I think we're missing the point that the Federal Railroad Administration in their safety program works closely with the railroads to ensure safety through monitoring reports, having actual inspectors, and working closely with the railroads for safety. We're in a tight budget situation. We were asked to look at places that we could reduce the state budget. I feel we're not compromising railroad safety by eliminating these two positions. Thank you, Mr. President. [LB255]

PRESIDENT SHEEHY: Thank you, Senator Hadley. Senator Lathrop. [LB255]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning. This one caught my eye. And now I've listened to Senator Hadley, who is I think the Vice Chair of Transportation Committee if I'm not mistaken. He's certainly vocal when it comes to Transportation bills and I appreciate that. And what I just heard was we asked...between Senator Fischer and Hadley, we asked the Public Service Commission to come in with a list of ideas on how we might save money in the LR542 process. And I'm looking at the committee statement and Tim Schram, a Public Service Commissioner, is listed as an opponent. Maybe somebody can tell me that someone else came in, in favor but the only proponent for this is listed on the committee

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statement is Dusty Vaughan who introduced it. He's committee counsel that introduced it. I also listened closely to Senator Hadley talk about the feds. And the feds are monitoring, they are doing inspections. That isn't what this guy does or these positions do. They are accident investigators and they have a purpose. I will tell you it isn't that I distrust the railroads. They are great corporate citizens. The Union Pacific Railroad is a great corporate citizen in the state of Nebraska and in Omaha, and I want to say that before I talk about this bill. But here's what happens. If a train hits a car at a crossing, the railroad will have somebody there within a couple of hours. I know that because I know one of the guys that does it. He drives around in the family car with a suitcase loaded, and when he gets a call, he drops what he's doing and he's off to someplace to investigate on behalf of the railroad. And when that happens, you then have an investigation by the railroad. You have typically an investigation by a county sheriff and I love these guys. County sheriffs are wonderful guys, they really are. And I don't want to say anything that sounds disparaging, but they don't have the capacity or the wherewithal to sort out a collision between a locomotive and a automobile. They're not accident reconstructionists. They're not capable of it. And I've seen a lot of investigations done by sheriffs' offices, both traffic mishaps and traffic train mishaps, and they don't take the right pictures, they don't do the measurements, they don't do the things professionally trained people do. And then the person that gets in the accident with the train has nothing. They have nothing. There's a report done by the Union Pacific Railroad or whatever the railroad is, by the railroad company, and that's privileged because it's done in anticipation of litigation, so that's not there. It's not available to them. And then you have a report done by a sheriff who went out and saw a mangled car on the side of the road. They take a picture of it. And there's no measurements. There's no expertise brought to the scene to create a report that might benefit somebody who's trying to sort out fault. I can appreciate the importance of...I can truly appreciate the important of the LR542 process. It is to look for things as we try to deal...I'm not sure what we're doing with this LR542 process. I'm just going to say that. I thought we were trying to get through a crisis and what we're doing is changing government, and I can accept that that's what we're doing. But if that's what we're

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doing, then we ought to approach this like... [LB255]

PRESIDENT SHEEHY: One minute. [LB255]

SENATOR LATHROP: ...we're making a permanent change to policy, and this would be. And it is important. The role...these reports that are done by these investigators are then put on file and then used as we determine what needs to be done with the railroad crossings across the state. That will go away. These reports are important. And I'm not trying to suggest...even as I look at the committee statement, the Union Pacific Railroad testified in a neutral capacity. There were no...no one other than the committee counsel testified as a proponent, and we had a Public Service Commissioner opposed and we had three other individuals that showed up that apparently are involved in driving these locomotives. And it's important, colleagues, that we not use this occasion to get rid of things that are important in the function of government. [LB255]

PRESIDENT SHEEHY: Time, Senator. [LB255]

SENATOR LATHROP: Thank you. [LB255]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Fischer. [LB255]

SENATOR FISCHER: Thank you, Mr. President and members. Senator Krist asked a question yesterday about the number of inspectors and if reports had to be filed, and I did want to address that we looked into it. The Burlington Northern Santa Fe, they have 34 track inspectors in Nebraska who are assigned different territories. Union Pacific, they have 12 track managers, each has a crew with about 150 people monitoring their track. All these inspection reports are federalized...excuse me, are filed with the federal government, with the FRA. The state does have access to that. On those federal employees that are doing the inspections, as I told you yesterday, there are 11 of those inspectors that cover Nebraska territory; 6 are based in Council Bluffs; 1 spends about

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30 percent of his time working in Nebraska; the other 5 in Council Bluffs. They spend about 50 percent of their time working in the state of Nebraska. So we do have a number of inspectors that are out there. What they're looking at, I pulled up the Union Pacific testimony on this bill, and what the goal of the track inspectors are, and that includes the federal, the state, and the railroad inspectors, they're to ensure that the federal track standards are met. There are six classes of tracks and they each have different speed limits ranging from 10 to 110 miles per hour. Each class has its own inspection standards. They said all of Union Pacific's track, and that includes the yard track, it's inspected at least every 30 days. The mainline track is inspected twice a week. Busy yards like North Platte, the Bailey Yard, which Senator Hansen of course is very familiar with, that's inspected weekly. All the inspection reports, again, they are filed with the Federal Railroad Administration. With regards to Senator Lathrop's questions, the committee counsel, yes, did introduce the bill. He was the only proponent for it. But as I said before, the committee, we worked with the Public Service Commission in looking for cuts to be made. Of course Commissioner Schram came in and opposed this cut. It's difficult to support a cut to your agency. It's difficult to do that. Commissioner Schram came in and opposed it. But the committee, we worked with Public Service Commission trying to find the cut that we were charged to find that would be I guess the one the committee could be most comfortable with. If we were going to look at other cuts, again, we would be looking at cuts to grain warehouse inspections. We've all read about explosions that happened there. We would be looking at cuts to limousine drivers who are of course driving vehicles that are for rent which our citizens travel in. We felt that it was more responsible of us to look at a cut in this area because of the federal inspectors that are out there in the numbers that I mentioned, the inspections that are made by the railroads themselves and that they are responsible for... [LB255]

PRESIDENT SHEEHY: One minute. [LB255]

SENATOR FISCHER: ...and ultimately liable for. In Commissioner Schram's testimony,

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he reported that as a general rule, state inspectors are on the scene first about half of the time. The other half of the time, those federal inspectors from the FRA, they are on the scene first. Senator Lathrop also made a comment I believe about the railroad crossings being inspected by these inspectors and that's how the Department of Roads makes determination on railroad crossings. It's my understanding, and we will check on this, but it's my understanding that the Department of Roads inspects every railroad crossing. Thank you, Mr. President. [LB255]

PRESIDENT SHEEHY: Thank you, Senator Fischer. Speaker Flood, you're recognized for an announcement. [LB255]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. It is the end of the week and a reminder that senator and committee priority bill designations are due by adjournment today which I anticipate will be at around noon. Again, deadline for senator and committee priority bill designations needs to be both in my office and a copy to the Clerk on the floor prior to adjournment or you forfeit the designation. Also, my office and myself, we've been getting a number of calls about consent calendar. We're going to follow the same process, but I'll be sending out a note that kind of talks to you about how you go through the consent calendar process just kind of to foreshadow what's going to happen. I will be considering those bills that are already meeting with the committee chair's approval. It's too early to start having those discussions. Let me get a memo out to you that will go over consent calendar. I do not know when it will be but it will be coming. Some of the Speaker priority requests that I've seen really meet the consent calendar criteria. I think we'll be letting those folks know after we pick our Speaker priority bills. But if you're interested in consent calendar, wait for the memo. It'll have good guidance in there. Thank you, Mr. President, and, everybody, please have a good weekend.

PRESIDENT SHEEHY: Thank you, Speaker Flood. Continuing with floor discussion on LB255. Members requesting to speak: Senator Loudon, followed by Senator Hansen,

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Senator Ken Haar, Senator Campbell, Senator Nelson, and Senator Heidemann.
Senator Louden. [LB255]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As we've discussed this bill yesterday and also today, and Senator Hadley from the committee has done his homework quite well, went out on where all the inspectors were across the United States and everything. But one thing that probably didn't show up in that research that he was looking at on his machine or wherever he's finding it, that it's my understanding Nebraska is one of the largest railroad states in the nation with having two major rail lines across the state, our Bailey Yards and our yards in Alliance, yards in Lincoln and Omaha, and points in between there. So we do have a lot more rail industry in Nebraska than we do in many other states, and, of course, the federal people are headquartered out of Kansas City. Some of them are up this way part time, but a lot of times we have a lot of time in between that they aren't there. When Senator Fischer talks about the people that are inspecting for the railroad, yes, the rails are looked at. If any of you have been around railroading or anything, you see that pickup driving up and down the railroad track. That's what you call your track inspector. They go seven days a week on that looking for loose bolts or anything other problems that are there, switches that aren't working right. So that's all part of it. This isn't what we're talking about. We're talking about the state looking after the safety of the railroads and how they're put together. Now how many times have you seen a track rider on a short line because it's the state that usually looks after the safety on the short lines? And when we talk about getting rid of these two full-time positions that is \$123,000, my understanding I don't even know if both positions are filled at the time. But that is a very small sum to be spending when we consider the safety of our railroads. Those of you that have ethanol plants in your district, you can't move ethanol unless you have a railroad. You've got to have a railroad to bring that product out of there or else it gets too expensive to haul. So nearly all ethanol plants that I know of are on some type of a railroad line, whether it's a short line or whether it's a mainline from the Union Pacific or Burlington Northern. In my district, we only have...I don't have any in the district I represent, but we do have an

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ethanol plant at Bayard and it's on the Union Pacific line or at Bridgeport rather. But this is something that, yeah, we were looking for ways to cut funding to save money. But when you look at the bill summary, you can see what the different sections are is what you're striking the authority to do on this Sections 1, 2, and 3 if you looked at the bill summary that comes with your bill. So those are what you're getting rid of. You're getting rid of a bunch of stuff and eliminating it. We're not just postponing it for a period of time, you're completely eliminating it. We could have done the same thing in a lot better sense if we would have told the Public Service Commission not to hire two more employees as they retire. You'd have still had the positions if needed them but you could have saved the money if that's what you're thinking about saving money. So I think we have to consider what we're trying to do here today, and that's eliminate some of the public safety for people in Nebraska that have a railroad system in place. This isn't something that you can expect the corporations themselves to do. They look after the safety on what it takes to keep their machinery on the road, keep their trains on the track. And when it comes to some of the other safety measures, then it's up to the unions to file a complaint. And that's who the unions will fill a complaint with is really some of your railroad... [LB255]

PRESIDENT SHEEHY: One minute. [LB255]

SENATOR LOUDEN: ...inspectors. So that's what that's all about and that's what the reason when you see the ones that were opposed to this bill when it was in committee was mostly the people that are out there working on the railroads. You look down that line there, these are...other than the public service commissioner, these are people that make a living running a railroad. And I'm surprised that we would not take into consideration some of their thoughts and input when we were trying to do something just to save \$123,000. Thank you, Mr. President. [LB255]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Hansen. [LB255]

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SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I would rise in opposition to LB255. And also I want to explain just a little bit where I'm coming from. In my district of Lincoln County, we have about 2,800 employees of just the Union Pacific. We also have some Burlington Northern employees on a track that's in the southern part of the county. Those 2,800 people have families and, of course, there are great contributors to the county. The unemployment...I was looking on the Department of Labor Web site this morning and they...you know, they keep up...Lincoln County's unemployment is down basically because of almost all the railroaders are back to work, which are high-paid jobs which are good jobs. And they're all, every one of them is concerned about safety, they really are. In North Platte, we have the largest classification railroad yard in the nation. It's eight miles long. If you go to the Harriman Center in Omaha, Council Bluffs, wherever it is, you'll see a little gap in their whole system and that's the only place that they don't control is that reclassification yard in North Platte. It's eight miles long. It has 315 miles of track. That in itself is a reason for inspectors. Three hundred fifteen miles of track just in the classification yard. They look at 10,000 rail cars a day. And of those 10,000 railroad cars a day, 3,000 of them go through that classification system. Senator Fischer talked about her comfort level with the lack of the inspectors that this bill would do. I would remind everyone that the LR542 process was also...when it came out on the front page it said that the LR542 options list. And this is an option list. In Appropriations, we've gone over most of the agencies. Today, unfortunately, is we're going to talk to the Public Service Commission and get our input from them and we've not had that yet. But as an options, there are agencies that were held flat, there were universities, four-year colleges were held flat. Some agencies were cut as much as 13 percent, some were cut 11.5 percent, but a lot of them were held flat and didn't incur any safety issues at all. The \$123,000 a year for two years is almost a quarter of a million dollars and it certainly is a figure that the Public Service Commission had to come up with somewhere in their budget to cut. I'm not sure this is the place to cut. Union Pacific has done a great job in the past looking at the tracks, looking at the wheels on their cars. That's a huge thing. They've got a facility now that they run a train at six miles an hour through a facility that looks for cracks and

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looks for voids in the foundry process of a wheel. A wheel may look perfectly fine on the outside but once they get a wetting agent on it, shoot radio waves at it, they can tell if that wheel has a void or a crack. They affectionately call that, "building the crack house." There's also the...a lot of these 2,800 people that live in my district work in the machinist area, and they're looking for cracks in the wheels, too, or any imperfection in those trains or the cars, the engines, or whatever is travelling up and down the track. You've got to keep in mind that they're one of the largest transporters in the nation and they haul everything. They get permits to haul caustic material. It all goes through those classification yards just a mile or so out of the city limits of North Platte, but it also goes down into the river in the heart of... [LB255]

PRESIDENT SHEEHY: One minute. [LB255]

SENATOR HANSEN: ...heart of Nebraska. We call it the "Platte River Road," and that's one reason the Union Pacific follows the Platte River. So we've got water issues, too, holding these caustic cars on the tracks. We've got to look at that too. I'm not sure...I realize that the \$123,000 a year is something that has to be addressed and it certainly does, but we have some agencies in the state that are being held flat with absolutely no decrease at all. I think we need to take a real close look at this from a financial standpoint and I know Senator Heidemann is going to address some of that later. But as I stated earlier and I remain opposed to LB255. Thank you, Mr. President. [LB255]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Senator Ken Haar. [LB255]

SENATOR HAAR: Mr. President, members of the body, I rise in opposition to LB255. I'm a big fan of trains because I think trains are green. They transport...I see the ads for Burlington Northern and I believe it, that trains can transport just about anything at much cheaper costs, saving energy, and that sort of thing. But I believe this is an issue of public safety. And since I can't be on every committee and I've said this before, but with terms limits, we have to know a lot about a little bit and a little about a lot. And this is

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one of those areas I don't know a lot about. So I called people who I think do know a lot about it, some of the people that work on the railroad. And in their opinion, it adds a measure of safety to the trains going across the state of Nebraska and it also adds some state oversight that we don't otherwise have. And I think both of those are important issues. So, again, I stand in opposition of LB255. And if Senator Hansen would want some more time, I'd give him the rest of my time. [LB255]

PRESIDENT SHEEHY: Senator Hansen, you're being yielded 3 minutes 35 seconds. Senator Hansen waives. Thank you, Senator Haar. Senator Campbell. [LB255]

SENATOR CAMPBELL: Thank you, Mr. President. Colleagues, as a member of the Transportation and Telecommunications Committee, we discussed this issue not only in the hearing that many of you are referring to but the summer, so this issue really got two different times for the committee to have an opportunity to discuss it. And I would hardly understand all of the concern being expressed, and if all things were equal and times were the same, I certainly could understand that. But I want to bring to your attention several things. When the committee looked at the information, I think we felt that the service was redundant, that it was covered, that we were not jeopardizing the safety nor the program across the state. We also have had a long partnership with the federal program, and the federal program will obviously have to relook at how it services the state. But I think the federal program will step in and pick up some of those issues. And as a committee, I think we felt very confident in bringing this recommendation to you. Thank you, Mr. President. [LB255]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Nelson. [LB255]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'm listening at this time. I'm not standing either in opposition or affirmation of LB255, but I do have a question or two of Senator Fischer if she will yield. [LB255]

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PRESIDENT SHEEHY: Senator Fischer, would you yield to Senator Nelson? [LB255]

SENATOR FISCHER: Yes, I will. [LB255]

SENATOR NELSON: Thank you, Senator Fischer. We just heard a little bit of talk from Senator Campbell about redundancy in inspections, and I think when you were speaking you said that in the case of crossing accidents and accident investigations, the state inspectors got there half the time first and then the federal inspectors got there half the time. [LB255]

SENATOR FISCHER: That is what we were told by Commissioner Schram from the Public Service Commission, yes. [LB255]

SENATOR NELSON: All right. Senator Lathrop had raised some questions about the efficacy of some of the investigations, perhaps the sheriffs were not equipped to do that thoroughly for the purposes of public information. I'm just wondering, the reports that are made by both the state inspectors and the federal inspectors, are those open to public inspection? [LB255]

SENATOR FISCHER: I'm trying to find out that information right now, Senator Nelson. We have a representative from Union Pacific in the lobby. She believes that the company reports are available but she's trying to get confirmation on that. And as I said, we're trying to find those answers out. [LB255]

SENATOR NELSON: The company reports being a railroad? [LB255]

SENATOR FISCHER: Yes. [LB255]

SENATOR NELSON: All right. And so they must be required to file the report somewhere. [LB255]

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SENATOR FISCHER: Oh, yes, yes. The railroads have to file all their inspection reports, not just accident reports, they're filing their inspection reports too. [LB255]

SENATOR NELSON: All right. Well, we probably have a lot of inspection reports and listening to what Senator Tom Hansen was saying, that's very important. But I was just kind of narrowing in here on accident reports because I can sympathize with people that need information if you're trying to determine fault and things of that sort. But I'm just speculating that probably if a thorough investigation is made of an accident on the federal level that those findings are going to be available. But I'll wait and see what information you get, and maybe you can share that with us later on if you're on the mike again. [LB255]

SENATOR FISCHER: Right, right. And, you know, I would remind you, we have a number of federal inspectors within the state of Nebraska and also those stationed in Council Bluffs. What we're talking about here are two positions at the state level, only one is filled currently. So we have one state inspector. That's what we're talking about is one state inspector. The other inspector has left the state position and become a federal inspector. So we still have a number of federal inspectors as other states around us rely upon them. They don't have state inspectors. [LB255]

SENATOR NELSON: All right. Thank you very much, Senator Fischer. Thank you, Mr. President. [LB255]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Members requesting to speak on LB255, we have Senator Heidemann, followed by Senator Dubas and Senator Lautenbaugh. Senator Heidemann. [LB255]

SENATOR HEIDEMANN: Thank you, Mr. Lieutenant Governor, fellow members of the body. We got before us LB255 which actually as you have heard is part of the LR542

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process. I want to say that I stand in support of LB255. There have been many tough decisions that have been made over the summer through the LR542 process. Every year, every agency or every two years, every agency does a modification process and they put things on that if we have to do them, if we have to do them, this is what we could do with the least amount of pain. With the LR542 process and actually this year's budgeting process, we went a little further and we went instead of 5 percent we went to 10 percent. LB255 represents something that the Transportation Committee was able to identify that we could do. I have faith in the Public Service Commission that they would not, they would not put something on the LR542 list that was going to hurt public safety. This is what they are charged to do: they are to make sure that pipelines are safe, that railroads are safe, that highways are safe. I am confident that they would not identify something that would compromise that safety. I have faith in the Transportation Committee that they would not take something that the Public Service Commission has given if they didn't think it is safe. I have faith in two...in an agency and in a committee here that what we're doing that, even though it's a difficult choice, choices that we're going to have to make over and over before this session is over, it's nothing that I believe in the long run is going to hurt our safety, otherwise they would be letting us know that. Once again, we have made many difficult choices already. We will have to make many more. LB255 is part of those difficult choices and decisions that we're going to make. I stand in support of LB255. [LB255]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. Senator Dubas. [LB255]

SENATOR DUBAS: Thank you very much, Mr. Lieutenant Governor. And I really have appreciated the conversation this morning. I am a new member to the Transportation Committee, so I wasn't able to be a part of the LR542 process and, again, appreciated the comments that Senator Campbell made to shine some more light on this, and the hearing was very beneficial too. I never have questioned the fact that we wouldn't have adequate inspection of tracks and those types of things. I think those...again, understanding the federal regulations, I know how strict they are. My main and biggest

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concern with this bill is the access for the citizens of our state to have questions answered, to make sure that they have a place to go to that they're going to get a relatively quick response to. And while they would be able to get a response from the federal government, I think having that state agency that they're familiar with, that they're comfortable with, that they have a great degree of confidence in, I think goes a long way. I appreciate Senator Hansen's comments. As a member of the Appropriations Committee, it's weighing that out, it's the cost-benefit analysis, and are we really getting what we're looking for in a savings by cutting this person or this program or whatever? We know we've got a lot...we've already made some hard decisions and we have many more in front of us. We all have to, as individuals, decide where are the areas that we think we can comfortably support and where we can't. And for me, this bill comes down to just having that agency and those boots on the ground that Nebraska citizens feel comfortable, confident in, and feel that they can have their concerns addressed, and reinforce the level of safety that I think the Public Service Commission does. So, again, I am appreciating this conversation this morning. It's good for us to have. Thank you very much, Mr. Lieutenant Governor. [LB255]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Lautenbaugh. [LB255]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I, too, rise again to speak in favor of this bill. And I recall the hearing on this very well, and I do want to be clear what we heard in committee. I don't think it's surprising that one of the Public Service Commissioners wouldn't be in favor of us cutting something out of their purview, if you will, but that's what we're doing here. And, again, I'd like to underline the point that we're talking about two positions, one of which stands empty at the time, at the current time. So I'm not sure that we're less safe without the one position filled. I don't think it's made a difference and I think cutting this other one will have pretty much the same effect as leaving the last one vacant has had. And, again, this isn't all the money in the world, but we need, what, probably 10,000 more ideas like this to make our budget balance. And we have to do it. Union Pacific was neutral but

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they were very reassuring that safety is being protected currently, that the federal inspectors could take over this obligation without any loss of safety. And I do want to be clear. We did not hear from, as I recall it, three individuals who operate trains or drive trains, whatever the term of art is. I believe we had three individuals from three different unions come in and testify, none of which was actually a locomotive engineer, if memory serves. But in any event, they weren't there as three private citizens expressing concerns about safety. That was not exactly what went on. This is a good bill. This is an important bill. And while it isn't all the money in the world, it's just another piece of what we have to find this year to get where we need to go. And I think we need to support this and I think it needs to move forward. And I would urge you to support it. [LB255]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Additional members requesting to speak to LB255, we have Senator Council, followed by Senator Conrad. Senator Council. [LB255]

SENATOR COUNCIL: Yes, Mr. President, thank you. I had initially determined not to get involved in the debate of this matter so as not to raise any appearances of impropriety as I, as many of you know, was a Union Pacific employee for 18 years. But I thought maybe I could add some insight into this debate having served at one time as the attorney who worked very closely with the Federal Railroad Administration on certain safety issues. And I heard someone talk about duplication of efforts. Well, I mean, first and foremost railroad safety is a federal matter. It is an issue of federal importance. So at any time there's a conflict between any state law and federal law, the federal law is going to govern. This field is entirely preempted with the exception of crossings where as I read LB255, it does not remove any jurisdiction from the Public Service Commission in terms of crossing safety. That remains within their jurisdiction. All that's being removed is some investigations, and I guess I'm not quite sure what those investigations are other than crossing accident investigations. And, as someone stated, it is absolutely the case that the railroads must conduct an investigation of any railroad crossing accident and provide that report to the Federal Railroad

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Administration. And ordinarily if we're talking about significant rail accidents, you're going to have a federal railroad inspector out there almost at the same time as the railroad sends its people out. And the other thing I think we need to be aware of is the technology advances with regard to track and wheels and how the technology, quite frankly, that the railroads have at their disposal for inspecting their tracks and inspecting their wheels far exceeds the technology available to the state to conduct those very same investigations. So in terms of increasing or improving safety, I don't believe that the public service involvement really adds that much to the safety with regard to track inspections and will inspections. And with that, again, I rise just to provide you with some of the knowledge I've gained from my experience on the railroad. I certainly appreciate the concerns of those who have spoken against it. But I guess I have witnessed such innovation and technology in the rail industry that in terms of what additional safety benefit that could be gained from, in this instance, one PSC inspector because I don't know who would fill the place of the person who's left. But I was advised that one of the individuals who works in track inspection on the Union Pacific Railroad who's been in that position for 30 years cannot recall one occasion where a PSC inspector came out during an accident investigation. So I just think we need to weigh the facts in this and certainly I don't disagree with Senator Lathrop that this becomes a policy decision. But when you look at what is actually being accomplished here by this bill is just, you know, removing from the Public Service Commission the ability to do the exact same thing that the Federal Railroad Administration is obligated to do. Thank you. [LB255]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Conrad. [LB255]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. I, like Senator Council but for very different reasons, was hoping to not have to be involved in the dialogue this morning, at least on the mike, not because I have any personal dealings or past financial dealings or involvement with any of the parties at issue in this legislation but because I was trying to listen carefully to both sides and make up my

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mind about how I felt about this issue. We did have an extensive discussion about this in the Appropriations Committee, and from a preliminary sense I voted against taking this cut in our preliminary budget for many of the reasons that have already been mentioned on the floor here today. But I am glad that this issue is having a full and fair debate. One thing that I think is important as we move forward is to keep focused on the issue at hand. And the issue at hand relates to employee safety and citizen safety and overall safety related to railroads, and that's what this bill is about. And inspections and regulations to ensure that we have the highest safety that we can in relation to this industry. So to take cheap political shots at those who have every right to participate in our political process through their elected representatives and to somehow characterize this as a union versus management issue is wrong. It's wrong. It's absolutely wrong. This isn't about wages. This isn't about benefits. This isn't about collective bargaining. This is about safety issues. Let's keep focused at the issue at hand. Let's not inflame inappropriate political rhetoric to score a few cheap political points. Thank you, Mr. President. [LB255]

PRESIDENT SHEEHY: Thank you, Senator Conrad. Senator Avery. [LB255]

SENATOR AVERY: Thank you, Mr. President. I've been concerned about how the LR542 process has unfolded. As I saw the process when we first undertook this whole business was that we were to tackle bold, new ideas that could change the way we do business in the state in order to capture some General Fund savings. That's what I thought we were doing. I thought we were supposed to identify programs that while desirable were not necessarily essential. This is one of them. Desirable, certainly, but is it essential? Maybe not. I've been very frustrated in my own committees by how easily we back away as soon as opposition arises. Virtually every proposal that were contained in that LR542 report has a constituency. And everything that we included in that report has opposition to it, but does that mean we have to back away, that we have to stand down and say, oh, we can't do that because we have some opponents? This is an opportunity for the state of Nebraska to change the way we do business, and in the

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process we can make government leaner. I intend to vote for this and I realize that it's going to be unpopular with some of my supporters. And I would like for members of the committees on which I serve to listen to what I'm saying because we have passed up opportunities in my own committees to do something like this or similar things like this when we should have been taking the opportunity to embrace some bold, new ideas. This may not be so bold; it is, however, an idea that will save us some General Fund money and I think we ought to pass it. Thank you, Mr. President. [LB255]

PRESIDENT SHEEHY: Thank you, Senator Avery. Seeing no additional requests to speak, Senator Fischer, you're recognized to close on LB255. [LB255]

SENATOR FISCHER: Thank you, Mr. President and members. I would like to thank all of you for the good discussion on this bill. As Senator Avery just stated, these are difficult decisions. This was not an easy decision for the committee but we did go through a process in looking at what could be eliminated. I thank him for his comments. I thank my committee members, all of them have stood up and spoke. I think Senator Campbell made some excellent points on how we came to this decision. I thank Senator Hadley for his investigation on what other states are doing. I'd also like to thank Senator Council. As a former employee with a very large railroad in the state, she gave us some, I think, vital information, and I was very interested when she said that these inspections take place within the company. These inspections do take place by the federal government, and the federal government is ultimately responsible for this. It's a difficult decision. It's a difficult decision but we were given a charge, all of our committees were given a charge to find the savings, to find how we could reinvent government, where we could look for programs that are perhaps redundant, where we can move forward and make some changes. This is the opportunities we have. Yes, it's difficult. Yes, change is always hard. We all have programs that we know, not just that we feel are important, that we know are important, but we have to look at all of them carefully. The committee did so in this case. If not this program, then which one? We made the decision that it was this program after we had thorough consultation with the Public Service

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Commission. I would ask that you advance LB255. Thank you. [LB255]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You have heard the closing. The question before the body is on the advancement of LB255. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB255]

ASSISTANT CLERK: 27 ayes, 12 nays on the motion to advance the bill, Mr. President. [LB255]

PRESIDENT SHEEHY: LB255 advances. Next item, Mr. Clerk. [LB255]

ASSISTANT CLERK: Mr. President, LB259 was introduced by Senator Fischer. (Read title.) The bill was read for the first time on January 11 of this year, referred to the Transportation Committee. That committee placed the bill on General File with no committee amendments. [LB259]

PRESIDENT SHEEHY: Senator Fischer, you're recognized to open on LB259. [LB259]

SENATOR FISCHER: Thank you, Mr. President and members. LB259 is a bill introduced as a result of the LR542 process. The Nebraska Railway Council was grouped under the Department of Roads and, thus, came under the jurisdiction of the Transportation and Telecommunications Committee. LB259 would eliminate the Railway Council. The council was formed in 1980 to administer the federal railroad Local Rail Freight Assistance Fund and the corresponding state Light-Density Rail Line Assistance Act. Under statutory authority, the council is responsible for administering programs and funds for light-density rail line acquisition, rehabilitation, or improvement operation and rail facility construction projects implemented pursuant to the state and federal acts. Over the years, the council has provided loans to short line railroads totaling \$1.2 million and grants totaling about \$5 million. However, the program has not been funded at the federal level since the early 1990s. No state funds have been

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allocated other than minor funds for the council's expenses. At the beginning of 2010, there was approximately \$1 million remaining in the council's fund. Those funds were recently granted to the Nebraska Central Railroad for emergency bridge and track repairs following the flooding in the Norfolk area that included destruction of a railroad bridge over the Elkhorn River. Those bills have been paid in full and the council's fund balance is at zero. LB259 would authorize the Department of Roads to take the place of the Railway Council and continue to administer existing agreements with the railroad. The department has already designated a staff for the council, and Director Monty Fredrickson testified the agency would be able to absorb all administrative functions of the council. The fiscal note on LB259 estimates a small General Fund savings of approximately \$2,400 that was historically used for meetings of the council. Thank you, Mr. President. [LB259]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You've heard the opening to LB259. Member requesting to speak, Senator Lautenbaugh. [LB259]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do support this bill and please vote for it. But I'd be a little remiss as Rules chairman from time to time if I didn't take chances to update you on the rules of this body, both written and unwritten. Today, we're going to talk about the unwritten one. It is okay to vaguely describe who comes in and testifies in favor and against a bill. It is impermissible, apparently, to point out who they were representing. We gather that information on the committee statements for some purpose I assume, but we're not supposed to mention it again. I guess we have a lot of secret societies and whatnot that come before the committees and want to testify on bills and, by gosh, we're not supposed to point out why they're there. So one member can stand up and say, well, we had three men who attended the committee and testified and they might drive trains so we should listen to them. Who are these three men? We don't know. I mean, sometimes good things happen when three men show up historically, sometimes bad things happen. Who are they and why are they there? Did a star guide them to committee that day? No, I didn't

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see it. But happily we have a little window into why they might have been there that day because they listed who they were representing and it happened to be three unions. And so I did that horrible thing and stood up and said, so these individuals are there representing three labor unions. That, my friends, is what is now labeled a cheap, political shot at someone, to actually take some information on the committee statement and remind you of what it is. So on a go forward, don't be a terrible person like me, try to rein yourselves in, make no mention as to why people are in a committee and who they might be representing even if they're good enough to tell us because you're not supposed to read anything into that. Just keep quiet, insult the intelligence of each other, insult the intelligence of the tens of people that watch us every day, and we'll go forward happily and ignorantly but not offensively and, by gosh, we should all avoid giving offense. Thank you, Mr. President. [LB259]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Seeing no additional requests to speak, Senator Fischer, you're recognized to close. [LB259]

SENATOR FISCHER: Thank you, Mr. President and members. Again, this bill, it represents a small dollar amount but it's another decision on policy and it was part of the LR542 study. I would ask for its advancement. Thank you. [LB259]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You have heard the closing. The question before the body is on the advancement of LB259. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB259]

ASSISTANT CLERK: 28 ayes, 2 nays on the motion to advance the bill, Mr. President. [LB259]

PRESIDENT SHEEHY: LB259 advances. Next item under General File. [LB259]

ASSISTANT CLERK: LB45, Mr. President, was introduced by Senator Fulton. (Read

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title.) The bill was read for the first time on January 6 of this year, referred to the Committee on Health and Human Services. That committee reports the bill to General File with committee amendments. (AM321, Legislative Journal page 579.) [LB45]

PRESIDENT SHEEHY: Senator Fulton, you're recognized to open on LB45. [LB45]

SENATOR FULTON: Thank you, Mr. President, members of the body. LB45 is...we're going to see an amendment here and I'm going to be touching on the bill as well as a little bit of the committee amendment. But basically as amended with AM321 would change the Engineers and Architects Regulation Act as follows. Firstly and primarily the reason of import for this bill: it allows for the 16-hour structural engineering exam beginning in April of 2011. The structural engineering exam is developed by the National Council of Examiners for Engineering and Surveying and is the standard exam for licensure as a professional structural engineer in Nebraska. Previously it was split into two eight-hour exams and the existing act reflects that exam format. The bill also does a number of other things: moves certain definitions within the act. The definitions themselves, however, do not change. It corrects inconsistencies when referring to exemptions within the act. It aligns language related to complaints with a national model law and allows complaints to be filed against organizations. Harmonizes language related to the distribution of penalty fees. Revises the level exemption for public works projects using the method described in the existing statute. These changes were made to reduce misinterpretation of the statute which could occur as every couple of years there are changes that are made that are specific to a date, and this language would make it more understandable. Provides for the enrollment of engineer interns in Nebraska if the applicant has taken the fundamentals of engineering exam in another state. And, lastly, it clarifies the exemption pertaining to certified trade professionals. So there will be an amendment to follow which I believe it's the Health and Human Services Committee has. I just ask you to move LB45 forward. Thank you, Mr. President. [LB45]

PRESIDENT SHEEHY: Thank you, Senator Fulton. You have heard the opening of

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LB45. As was stated, there is a Health and Human Services Committee amendment, AM321. Senator Campbell, you're recognized to open. [LB45]

SENATOR CAMPBELL: Thank you, Mr. President. And I know that the most burning question among every person in this room is, how did the Health and Human Services Committee (laughter) get this bill? Well, that's because Health and Human Services deals with credentialing of professionals, and that's how we were assigned this bill. But I just wanted to make sure that you all had that answer before lunch time. I am here to introduce AM321 to LB45. AM321 is offered at the request of the Nebraska Board of Engineers and Architects. First, it adds "political subdivision" to eliminate some possible ambiguity to reciprocity. The amendment addresses an individual who may be certified or licensed by a nonstate entity such as a city or county. Additionally, AM321 removes the cross-discipline practice between the professionals of architecture and engineering. This amendment responds to concerns raised at the public hearing of LB45 by a professional organization that, although testifying in a neutral capacity, had an issue with the cross-discipline practice provisions. The Nebraska Board of Engineers and Architects' position is that it is best to remove cross-discipline practice from the bill and move forward with noncontroversial time-sensitive changes to the Engineers and Architects Regulation Act provided under LB45 as amended. And I would like to personally thank Senator Fulton for the work that he has done and all of the people who came together this past summer to put LB45 together, and would urge a green on both the amendment and the bill. Thank you, Mr. President. [LB45]

PRESIDENT SHEEHY: Thank you, Senator Campbell. You've heard the opening of the Health and Human Services Committee amendment AM321 to LB45. Seeing no requests to speak, Senator Campbell, you're recognized to close. Senator Campbell waives closing. The question before the body is on the adoption of AM321. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB45]

ASSISTANT CLERK: 34 ayes, 0 nays on the adoption of committee amendments.

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[LB45]

PRESIDENT SHEEHY: AM321 is adopted. We will now return to discussion on LB45. Seeing no requests to speak, Senator Fulton, you're recognized to close. [LB45]

SENATOR FULTON: Thank you, Mr. President. Briefly, it's appropriate that I let the record reflect the same thing that Senator Campbell said to the many individuals and groups who worked diligently on this measure over the course of the last year. I extend my thanks and I ask my colleagues to vote LB45 to Select File. Thank you, Mr. President. [LB45]

PRESIDENT SHEEHY: Thank you, Senator Fulton. You have heard the closing. The question before the body is on the advancement of LB45. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB45]

ASSISTANT CLERK: 33 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB45]

PRESIDENT SHEEHY: LB45 advances. Mr. Clerk, we will now move to items under Select File 2011 senator priority bill. [LB45]

ASSISTANT CLERK: Mr. President, as it relates to LB237, there are no E&R amendments. I do have an amendment offered by Senator Howard. (AM581, Legislative Journal page 681.) [LB237]

PRESIDENT SHEEHY: Senator Howard, you're recognized to open on AM581 to LB237. [LB237]

SENATOR HOWARD: Thank you, Mr. President and members of the body. Today, I bring you AM581 because I've been asked out of an abundance of caution to include

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language in LB237 that LB237 does not have General Fund financial impact. Although I think the amendment is not necessary, I will reemphasize the benefit of LB237. LB237 authorizes the Department of Health and Human Services to collaborate with the Nebraska Health Information Initiative, or NeHII, and to create the necessary rules or regulations to facilitate the establishment of a medical alert system. Currently, NeHII's electronic medical records allow practitioners to access patient record information. The system is effective but the functionality for the purpose of monitoring patient prescriptions could be greatly improved by the public/private partnership this bill will create. LB237 will facilitate the creation of the alert system, notifying practitioners when there's behavior indicative of "doctor shopping". Moreover, this bill will smooth the process of bringing pharmacies into the system, a component that is key to stopping the dangerous misuse of prescription medications. This isn't just the regular old prescription monitoring system that many states have established, this is an innovative system that makes prescribers and dispensers of medication the first line of defense against prescription drug abuse. Other prescription drug monitoring systems are costly, they could result in a government intrusion into personal information, and they often have a significant period of time before information is available to medical professionals. The system LB237 would promote is real time centers on practitioners and patients and has no cost to the state. For these reasons, I advance you to approve AM581 and advance LB237. Thank you. [LB237]

PRESIDENT SHEEHY: Thank you, Senator Howard. You've heard the opening of AM581 to LB237. Seeing no requests to speak, Senator Howard, you're recognized to close. [LB237]

SENATOR HOWARD: I'm just going to close by frankly asking for a moment of indulgence. I received a letter from a pharmacist. Dear Senator Howard: First, I would like to extend my utmost gratitude for the introduction of LB237. As a pharmacist, I am challenged daily and left with a heavy burden of trying to prevent narcotic and other controlled substance abuse among my patients. It is important that personal...it is

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unfortunate that personal tragedy struck your family and became a catalyst for the passage of this bill. As you know, there are many more families with sons, grandmothers, aunts, uncles, and brothers battling this disease, and this bill will help protect the future. I manage a small, retail pharmacy in rural Nebraska that unfortunately fills a disproportionately large amount of controlled medications for my patient population. Due to the fact the state of Nebraska has not already created a database for controlled medications, I am left crossing my fingers the medications I dispense are not going out the door and into the wrong hands or being abused. More than once a month, I am left with a challenge of contacting prescribers from a 200-mile-plus radius that their patient is "doctor shopping" and is getting multiple controlled drugs from multiple providers. Also on a weekly basis, I am left with the burden of calling and checking with other pharmacies to prevent double-dipping. This bill is necessary. What I do is also necessary yet time consuming. This is an activity that really takes valuable time that I could be using to teach other patients important information about the medications they are receiving. I have received evidence that this bill is of the caliber necessary for the safety of patients and families in the state of Nebraska. I've had a patient who's a surgeon and was unaware that the family physician was also treating postoperative pain that eventually led to the patient being admitted for detoxification for pain medication addiction. In another case, a patient was with a severe depression and other mental illness was being treated by a behavioral specialist and was given a strong pain killer through the ER for back pain, the combination of which was later found to lead to a deadly overdose. These are, unfortunately, the same stories echoed by pharmacists everywhere on a daily basis. These kinds of drug abuse know no gender, economic status, occupation, age, race, nor location of residence. These are not bad people. This is a problem that can affect anyone. This daily frustration would be greatly relieved with the passage of LB237, and it is of most respect that I write this letter to fully support this bill. Thank you. And thank all of you. Thank you. [LB237]

PRESIDENT SHEEHY: Thank you, Senator Howard. You have heard the closing. The

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question before the body is on the adoption of AM581 to LB237. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB237]

ASSISTANT CLERK: 30 ayes, 0 nays on the adoption of Senator Howard's amendment, Mr. President. [LB237]

PRESIDENT SHEEHY: AM581 is adopted. [LB237]

ASSISTANT CLERK: Mr. President, I have nothing further on the bill. [LB237]

PRESIDENT SHEEHY: Senator Larson, you're recognized for a motion. [LB237]

SENATOR LARSON: Mr. President, I move that LB237 be advanced to E&R for engrossing. [LB237]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB237 advances. Mr. Clerk, we now proceed to LB256. [LB237 LB256]

ASSISTANT CLERK: Mr. President, on LB256 there are no E&R amendments. Senator Karpisek would move to amendment with AM597. (Legislative Journal page 702.) [LB256]

PRESIDENT SHEEHY: Senator Karpisek, you're recognized to open on AM597. [LB256]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. LB256 clarifies the State Racing Commissioner's terms. My amendment is AM597 was LB299 in committee which was heard and advanced to General File with no opposition and one committee member not voting. Currently, there are racetracks that struggle to conduct the necessary live horse racing meets that are mandatory to do. This amendment would

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allow an existing racetrack licensee to contract with another racetrack licensee to conduct a live race meeting on its behalf. The issue for the horse racing industry is that live horse racing is more profitable at some tracks than others, but all racetracks must have some live horse racing in order to have simulcast which is more profitable and keeping the industry alive. This amendment would allow a racetrack where live horse racing is less profitable to contract with another racetrack where live horse racing is more profitable in order to meet its requirement for live horse racing dates and still be able to conduct simulcast. Along with this also plays the Lincoln track that will not be here in two years and what will happen in that situation. When that track leaves due to Innovation Campus, there will be no more track here to run any live meets, hence simulcast would be gone and probably along with it horse racing in general. I feel that this amendment is very crucial to keep horse racing alive in the state. Thank you, Mr. President. [LB256 LB299]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. You've heard the opening of AM597 to LB256. Seeing no...Senator McCoy. [LB256]

SENATOR McCOY: Thank you, Mr. President, members. Would Senator Karpisek yield? [LB256]

PRESIDENT SHEEHY: Senator Karpisek, would you yield to Senator McCoy? [LB256]

SENATOR KARPISEK: Yes, I will. [LB256]

SENATOR McCOY: Thank you, Senator. I'm looking at this and I'm trying to understand what originally LB299 did. Am I to understand then if these dates are shifted from less profitable to more profitable that then live horse racing would not be conducted then at the less profitable track? [LB256 LB299]

SENATOR KARPISEK: Correct. [LB256]

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SENATOR McCOY: Okay. I guess my question to that would be is that a departure from what we have done in the past, and that is that the tracks to allow betting you actually have to have racing at each one of those tracks. Is that not how it's been in the past? [LB256]

SENATOR KARPISEK: Yes, that is how it's been in the past. [LB256]

SENATOR McCOY: Okay. Thank you, Mr. President. [LB256]

PRESIDENT SHEEHY: Thank you, Senator McCoy. Senator Nelson. [LB256]

SENATOR NELSON: Thank you, Mr. President and members of the body. I'd like to address a couple of questions to Senator Karpisek. [LB256]

PRESIDENT SHEEHY: Senator Karpisek, would you yield to Senator Nelson? [LB256]

SENATOR KARPISEK: Yes, I will. [LB256]

SENATOR NELSON: This has gone a little fast here and I missed the number. This was formerly...this amendment was formerly what bill number...? [LB256]

SENATOR KARPISEK: LB299, Senator Nelson. [LB256 LB299]

SENATOR NELSON: LB299. Can you...it was identical at the time, this amendment now that you're bringing is an identical...? [LB256 LB299]

SENATOR KARPISEK: Yes, yes, Senator, it is. [LB256 LB299]

SENATOR NELSON: All right. And was there any opposition to this when that was

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heard by your committee? [LB256 LB299]

SENATOR KARPISEK: No, Senator, there was not. [LB256 LB299]

SENATOR NELSON: I'm going to pursue a little more about what Senator McCoy was asking. I've got some recollection that when we, years ago, got into this with racing that one of the requirements was that there had to be a measure of...or an amount of live racing at the various tracks as kind of a trade off for the additional benefits that we were going to provide from keno and other things, would that be correct? [LB256]

SENATOR KARPISEK: I'm not sure about keno and the other things, Senator, but it was for simulcast racing. [LB256]

SENATOR NELSON: For simulcast racing. [LB256]

SENATOR KARPISEK: Yes. [LB256]

SENATOR NELSON: I apologize. I couldn't think of the term... [LB256]

SENATOR KARPISEK: That's all right. I understand. [LB256]

SENATOR NELSON: ...right there. But how much live racing is presently required at each of the tracks? [LB256]

SENATOR KARPISEK: Right now they have to run...well, it does vary between some of the tracks, but I think Omaha, Senator, runs four days. I think Atokad maybe runs one day right now. [LB256]

SENATOR NELSON: Is this profitable for them to run live racing at four days if you know? [LB256]

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SENATOR KARPISEK: Well, the problem is, Senator, that live racing is not very profitable because they have to pay the purses, pay people to be there, all those sort of things. So, no, they probably do not...the track does not come out ahead when they have the live meets. [LB256]

SENATOR NELSON: But it does provide an avenue for local horsemen and people who are in the racing business to bring their horses there and race, is that correct? [LB256]

SENATOR KARPISEK: That is correct and that's why we want to transfer the days to another track so they still have the same...still the same number of days that have to be run in a season. [LB256]

SENATOR NELSON: How many tracks, operating tracks, do we have in Nebraska now? [LB256]

SENATOR KARPISEK: Right now we have five, Senator. [LB256]

SENATOR NELSON: Do you contemplate that maybe four of those tracks then might just transfer theirs to a single track and hold the racing in one location? [LB256]

SENATOR KARPISEK: No, but it could be possible that it may shift to two, probably to Grand Island and Omaha. I really don't know what Columbus is going to do. Senator Schumacher may know more about that than I, but it could be two. I don't know that for sure though. [LB256]

SENATOR NELSON: Um-hum. All right. I'll continue to listen to this and perhaps we'll have other questions from the floor, but I want to thank you for your answers, Senator Karpisek. [LB256]

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SENATOR KARPISEK: Thank you, Senator Nelson. [LB256]

SENATOR NELSON: Thank you, Mr. President. [LB256]

PRESIDENT SHEEHY: Thank you, Senator Nelson. (Visitors introduced.) Continuing with floor discussion of AM597 to LB256. Members requesting to speak: Senator Lautenbaugh, followed by Senator Fulton and Senator Pankonin. Senator Lautenbaugh. [LB256]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do rise in support of this amendment and the underlying bill. I think this is something important that we need to do for the industry. And, you know, those of you who have been around here for a year or two may recall that we had some debate about the horse racing industry last year, and there are some things that we tried to do to increase attendance at the tracks, increase purses, increase participation, and help out the industry and we failed at that. That doesn't mean that the industry doesn't need help; that means that we didn't help it. The need still exists. As I read this amendment, it would just provide flexibility to the existing tracks to make the racing days that we have as profitable as we can be, which at a very basic level is the point of having the day and supporting the sport. It has to make economic sense. And I'm not going to second-guess when they come here and say, this is what we need to improve the value of these days and we need this flexibility, I'm willing to give them this flexibility. I don't see any colorable argument that this would constitute expanded gambling. We're just putting it in different places arguably as I understand the amendment, and I would urge you to support this important amendment for the industry. Thank you. [LB256]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Fulton. [LB256]

SENATOR FULTON: Thank you, Mr. President. Would Senator Karpisek yield to a question? [LB256]

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PRESIDENT SHEEHY: Senator Karpisek, would you yield to Senator Fulton? [LB256]

SENATOR KARPISEK: Yes, I will. [LB256]

SENATOR FULTON: Okay. Senator, I'm just...I'm catching up on probably the same vote as Senator Nelson. Could you go to, let's see, AM597, page 3, and I'm starting in line 20. Can you explain this a little bit? So any, "racetrack licensee, other than a racetrack licensee contracting for a live race meet as authorized under Section 2-1205, conducts live racing for less than 70 percent of the days assigned such racetrack licensee in 1988." Can you explain that? So there are certain...and this may be an obvious answer but I'm just not familiar, there are certain racetracks who were licensed in 1988, and this provides some exemption for those who are racing, conducts live racing for less than 70 percent of their days. [LB256]

SENATOR KARPISEK: That is correct, Senator. At that time, you had to have that many days run, the 70 percent of the days that were run in 1988. But it does preclude others from conducting that many, say, Omaha, Horsemen's Park is new. [LB256]

SENATOR FULTON: Okay. What is the...what occurred in 1988? [LB256]

SENATOR KARPISEK: I'm sorry, Senator, could you repeat that? [LB256]

SENATOR FULTON: What occurred in 1988? So, and again, this might be a (laugh) painfully obvious answer. I don't know. I'm just...I'm wrapping my brain around this. What was it in 1988? Was that a point in time at which the licenses were promulgated? [LB256]

SENATOR KARPISEK: You know, Senator, I do not know that but I'm having...I'm trying to find that out. But why the use 1988 as the base year I do not know right now. [LB256]

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SENATOR FULTON: Okay. Okay. I'm going to be open like others here. [LB256]

SENATOR KARPISEK: Senator, that was the year that the horsemen were concerned about simulcast, and so that was when this all started. [LB256]

SENATOR FULTON: Okay. I will...thank you, Senator Karpisek. Thank you, Mr. President. [LB256]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator Krist. [LB256]

SENATOR KRIST: Thank you, Mr. President. We, in the General Affairs, debated for a quite some time and heard from many people in the horse industry about the plights and the current situation with the horsemen. I've heard it argued that it is the sport of kings, dead kings, and that it should not be supported. I would remind you that there are...statistically you can look up the number for yourself, but there are thousands of quarter horses, racing horses, in the state. There are ranches, I'm sure many close to you, some of which you represent those constituents. Whether the industry is having issues or not, they have come to use over the past few years since I've been here and they have expressed their need for help and assistance in trying to keep their industry alive and not have to go to bordering states--Kansas and Oklahoma and Iowa and others--to run their races. As you can imagine whatever your expertise might be--as a referee on a basketball court, as a player on a football team, as a manager of that team--you can imagine what it takes to set up and take down the county fair or to put yourself in place and think about that in terms of bringing the horses in, provided for their shelter, providing for their food, managing the people in the crowds, and you can understand why that is an expensive proposition. So one day at Atokad, you have to not...I mean, you didn't have to sleep in a Holiday Inn last night to realize that that might not be cost effective. So what the industry is trying to do is consolidate those tracks, the tracks that are running, and put as many of those events at those that are indeed

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profit-centers in a way to try to keep the industry thriving. I would suggest to you that by once again not following through with this step, we will have not helped the industry at all, in fact, we will have turned our back on the industry in this very small way. Does that mean that there's still going to be simulcast at tracks that wouldn't run a race?

Potentially. Does that mean that we would not run the...and I believe the number and you'll have to check the statistics again, I think we have to run, by contract with the horsemen now, 72 live races in the state every year in order to keep the industry where it's at--72 races. If we could run all 72 of those races at one place and make it profitable for them, those other track sites would be in place and the revenue for those other sites would aid the industry. I would suggest to you that one of the things that we have done to hurt the industry is not allow the industry to run live races at Fonner Park during the State Fair. Imagine that. Imagine that. Grand Island has a State Fair there and we're telling them they cannot run live horse races there because it didn't work at Lincoln and it won't work at Grand Island. We're going to recess. We'll come back tomorrow or the next day or the next day. No, not tomorrow actually. We'll come back in next week and we'll pick this up where we left off. [LB256]

PRESIDENT SHEEHY: One minute. [LB256]

SENATOR KRIST: I would hope next week that we can have a discussion in some way would help the industry and logically come to a place where we don't turn our backs on the horsemen. Thank you, Mr. President. [LB256]

PRESIDENT SHEEHY: Thank you, Senator Krist. Mr. Clerk, do you have items for the record? [LB256]

ASSISTANT CLERK: Mr. President, I do. Your Committee on Education reports LB558 to General File with amendments. Revenue reports LB385. A series of letters designating priority bills: Executive Board, LB576; Senator Nelson, LB664; Senator Fulton, LB564; Senator Lathrop, LB479; Business and Labor, LB151; Senator Harms,

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LB35; Senator Pirsch, LB675; Senator Council, LB204; Senator Flood, LB670; Senator Lautenbaugh, LB142. The bills that were read on Final Reading this morning have been presented to the Governor. (Re LB159, LB164, LB191, LB210, LB210A, LB228, LB257, LB278, LB281, LB284, LB314, LB368, LB399, LB471, LB474, and LB556.) A communication from the Governor that LB12, LB24, LB25, LB26, LB36, LB43, LB61, LB77, LB78, LB94, LB98, LB108, LB114, LB146, LB160, LB178, LB178A, LB179, LB197, LB215, LB225, LB243, LB264, LB274, LB303, LB308, LB311, LB326, LB331, LB332, LB334, LB335, LB347, LB383, LB396, LB401, LB410, LB410A, LB462, LB62, and LB81 have been signed and delivered to the Secretary of State. New resolution: LR117 by Senator Smith would express condolences to the family of Richard Takechi. And an amendment to be printed to LB297 from Senator Coash. Name adds: Senator Pirsch to LB237. (Legislative Journal pages 847-850.) [LB12 LB24 LB25 LB26 LB35 LB36 LB43 LB61 LB62 LB77 LB78 LB81 LB94 LB98 LB108 LB114 LB142 LB146 LB151 LB159 LB160 LB164 LB178 LB178A LB179 LB197 LB191 LB204 LB210 LB210A LB215 LB225 LB228 LB237 LB243 LB257 LB264 LB274 LB278 LB281 LB284 LB297 LB303 LB308 LB311 LB314 LB326 LB331 LB332 LB334 LB335 LB347 LB368 LB385 LB383 LB396 LB399 LB401 LB410 LB410A LB462 LB471 LB474 LB479 LB556 LB558 LB564 LB576 LB664 LB670 LB675 LR117]

And, finally, a priority motion: Senator Ken Haar would move to adjourn until Monday, March 14, 2011, at 10:00 a.m.

PRESIDENT SHEEHY: You have heard the motion to adjourn until Monday, March 14, 2011, at 10:00 a.m. All those in favor say aye. Opposed, nay. We're adjourned.